IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8032 OF 2006

Giridarshan Co-operative Housing Society ltd ...Petitioners
Versus
State of Maharashtra & Ors. ....Respondents

S.A.Bhagat, advocate for the petitioners.
Mrs.Sama S.Singh for respondent no.5.

**CORAM: S.C.DHARMADHIKARI, J.**

**11th December, 2007.**

**P.C. :**

1. This Writ Petition is directed against an order of the Minister of State, Co-operation, Government of Maharashtra dated 2.8.2006 by which he confirms the order dated 4.10.2004 passed by the Divisional Joint Registrar, Co-operative Societies, Pune in Appeal no. 57 of 2001. That appeal was preferred against the order dated 21.3.2001 of the District Deputy Registrar, Co-operative Societies, Pune.

2. The petitioner before me is a Co-operative housing

Society. The Co-operative Housing society has one of its member (Kashinath Vasant Kadu) respondent no.5 before me. His case is that he is a member since 1972. The plot was allotted to him and despite no objection given by the petitioner society on two occasions he failed to commence construction. He has kept the plot vacant for more than three decades. In such circumstances, the petitioner society decided to initiate proceedings for his expulsion/removal and accordingly convened a meeting of the General Body. A Resolution was passed in the General Body Meeting and ultimately in accordance with law the same was forwarded for approval of the Deputy Registrar. The Deputy Registrar refused permission to the expulsion on 21.3.2001. Aggrieved by this order an Appeal was preferred being Appeal No. 57 of 2001. That Appeal was also dismissed and therefore the subject Revision Application, which also is dismissed.

2. When this matter was placed before me, I called upon the learned Advocate appearing for Respondent no.5 member as to whether the said respondent is interested in continuing as a member of the petitioner society and

after taking instructions she makes a statement that he is still interested. Secondly, I called upon her to take instructions as to when the respondent no.5 Member will commence construction and complete the same. The learned counsel states that her instructions are that an NOC from the society is needed and until the same is given the construction cannot commence.

3. Mr.Bhagwat, states that the society has no objection provided the concerned member carries out the construction activity in accordance with its Rules and By-laws so also the permission, which will have to be obtained, from the local authority/body. After this submission was made by Mr.Bhagwat, once again I called upon the concerned member’s counsel to give some outer limit and she states that it would depend upon the society’s permission/ NOC.

4. In my view, even if I am not interfering with the orders under challenge based as they are on the materials produced, yet these state of affairs cannot continue indefinitely. A person who becomes the member of the Co-operative Housing Society must realise that

this membership is in relation with a Housing Accommodation to be either constructed by him or upon construction by the society provided to him or allotted to him. The increasing tendency in the Co-operative Housing Society not to abide by the General Body Resolutions hardly encourages community living. The very purpose of the Co-operative housing Society being set up and established or permitted to be set up and registered gets defeated by such attitude and response. In these circumstances, in my view, when the respondent no.5 had made a statement before the Deputy Registrar that he would commence construction and complete the same, so also on that basis the Deputy Registrar dismissed the approval application, then, interest of justice would be subserved if the following order is passed :

(i) The Respondent no.5 to commence and complete the construction in terms of the order of the Deputy Registrar dated 21.3.2001, which is an order in favour of the Respondent no.5, within a period of two years from today failing which he has to abide by the said

order and direction. Petition dismissed. No order as to costs.

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